

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB613)

Received: **12/10/1999**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Corrections**

By/Representing: **Tony Streveler**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Real Estate - miscellaneous
Courts - immunity liability**

Extra Copies: **JEO**

Pre Topic:

No specific pre topic given

Topic:

Eliminate notice requirement and provide immunity for not disclosing proximity of sex offender

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 12/13/1999	jgeller 12/14/1999		_____ _____			
/1	kahlepj 12/17/1999	jgeller 12/17/1999	martykr 12/15/1999	_____ _____	lrb_docadmin 12/15/1999	lrb_docadmin 12/15/1999	
/2			martykr 12/17/1999	_____ _____	lrb_docadmin 12/17/1999	lrb_docadmin 12/17/1999	

FE Sent For:

<END>

12/15/1999 08:42:18 AM

Page 1

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/?	kahlepj 12/13/1999	ygeller 12/14/1999		_____			
/1		12/12/17 jg	martykr 12/15/1999	_____	lrb_docadmin 12/15/1999	lrb_docadmin 12/15/1999	

FE Sent For:

<END>

12/10/1999 04:00:24 PM

Page 1

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1?	kahlepj	1/12/14 jlg	tm 12/15	Q4 12/15			

FE Sent For:

<END>

for DIC by Tony Strevler @ DOC

Amend to AB 613

- delete notice etc. for realtors/handlers

- provide blanket immunity (for not disclosing)

May talk to Rick Staff at Realtors⁽²⁾



copy LJO

what if does disclose + prospective buyers back
out? could they be



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1099/1
PJK.....
JLg

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
ASSEMBLY AMENDMENT ,
TO 1999 ASSEMBLY BILL 613

D-note
SOON
(Mon, 12-13)

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 12: delete the material beginning with "notice" and ending with
3 "property" on line 13[✓] and substitute "providing brokers, property owners and
4 landlords with immunity from liability for not disclosing sex offender registry
5 information".[✓]

6 2. Page 33, line 21: delete the material beginning with that line and ending
7 with page 38, line 12[✓] and substitute:

8 "SECTION 82m. 452.24^x of the statutes is created to read:

9 452.24 Immunity related to sex offender registry nondisclosure.[✓] A
10 broker or salesperson is immune from liability for any act or omission related to not
11 disclosing that a particular person is required to register as a sex offender under s.
12 301.45[✓] or any information about the sex offender registry under s. 301.45.

1 SECTION 84m. 704.50^x of the statutes is created to read:

2 **704.50 Immunity related to sex offender registry nondisclosure.** A
3 landlord or his or her agent is immune from liability for any act or omission related
4 to not disclosing to a tenant or prospective tenant, or an agent of a tenant or
5 prospective tenant, that a particular person is required to register as a sex offender
6 under s. 301.45 or any information about the sex offender registry under s. 301.45.

7 SECTION 86m. 706.20^x of the statutes is created to read:

8 **706.20 Immunity related to sex offender registry nondisclosure.** An
9 owner of an interest in land is immune from liability for any act or omission related
10 to not disclosing to a purchaser or prospective purchaser of the interest, or an agent
11 of a purchaser or prospective purchaser, that a particular person is required to
12 register as a sex offender under s. 301.45 or any information about the sex offender
13 registry under s. 301.45.”[✓]

14 **3.** Page 48, line 9: delete lines 9 to 16. [✓]

15 (END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1099/fdn

PJK.....

Jg

I did not delete the provision in the bill that provides that brokers and salespersons have no duty to disclose any information about a person who is required to register with the sex offender registry. I did add, however, that brokers and salespersons have immunity from liability for not disclosing that a particular person is required to register or any information about the sex offender registry.

For landlords and property owners, I provided that each has immunity from liability for not disclosing that a particular person is required to register or any information about the sex offender registry to a tenant or prospective tenant, buyer or prospective buyer, or agent of any of those. I did not specifically provide that ~~either~~ has ~~no~~ duty to disclose such information.

Let me know if you want the amendment to provide that landlords and property owners, in addition to being immune from liability, have no duty to disclose. Also, do you want to provide immunity from liability for *disclosing* sex offender registry information?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1099/1dn
PJK:jlg:km

December 15, 1999

I did not delete the provision in the bill that provides that brokers and salespersons have no duty to disclose any information about a person who is required to register with the sex offender registry. I did add, however, that brokers and salespersons have immunity from liability for not disclosing that a particular person is required to register or any information about the sex offender registry.

For landlords and property owners, I provided that each has immunity from liability for not disclosing that a particular person is required to register or any information about the sex offender registry to a tenant or prospective tenant, buyer or prospective buyer, or agent of any of those. I did not specifically provide that neither has a duty to disclose such information.

Let me know if you want the amendment to provide that landlords and property owners, in addition to being immune from liability, have no duty to disclose. Also, do you want to provide immunity from liability for *disclosing* sex offender registry information?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

Section #. 301.46 (7) of the statutes

301.46 (7) IMMUNITY. A person acting under this section is immune from civil liability for any good faith act or omission regarding the release of information authorized under this section. The immunity under this subsection does not extend to a person whose act or omission constitutes gross negligence or involves reckless, wanton or intentional misconduct.

History: 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283.

Kahler, Pam

From: Rick Staff [rikstaff@wra.org]
Sent: Wednesday, December 15, 1999 8:49 PM
To: Pam.Kahler@legis.state.wi.us
Cc: Margolies, Robert S. DOC; Theo, Mike - VP Public Affairs; William Malkasian
Subject: Re: AB 613 amendment

Pam,

Tony Streveler asked me to get back to you directly with comments on Megan's law amendment. I like the approach you have taken. I did forward the draft to an attorney we work with on litigation matters to verify that the approach is as effective as it appears to be. I expect to hear from him Thursday and will call you ASAP to share his comments.

I particularly liked the broker model in section 82m because it did not attempt to enumerate those persons to whom the broker would have no duty to make disclosures. My concern with the landlord and seller provisions is that they identify those persons to whom immunity will be provided for failure to make a disclosure. I always worry that someone will be missed. For example, the WI supreme court recently indicated that a landlord has inspection duties (and likely disclosure and other responsibilities as well) based upon common law negligence theories arising out of a non-tenant occupant's exposure to LBP hazards (Antwaun A. v. Heritage Mutual Insurance Company). Along the same lines, the owner of an interest in land can currently be liable to persons other than a purchaser of an interest in land. Persons such as optionees who acquire a personal property interest related to real property are include under various seller disclosure duties, but arguably may fall outside of the protections afforded by the proposed language. In conclusion, I might apply the approach used for brokers to landlords and sellers by providing something like:

301.46(7)

704.50 Immunity related to sex offender registry nondisclosure. A landlord or his or her agent is immune from liability for any act or omission related to not disclosing that a particular person is required to register as a sex offender under s. 301.45 or any information about the sex offender registry under s. 301.45.

706.20 Immunity related to sex offender registry nondisclosure. An owner of an interest in land is immune from liability for any act or omission related to not disclosing that a particular person is required to register as a sex offender under s. 301.45 or any information about the sex offender registry under s. 301.45."

I'm on the road teaching Thursday, but if you could leave me a message at 242-2265, I will try to get back to you during breaks in the program.

Thanks much,

Rick Staff

----- Original Message -----

From: Margolies, Robert S. DOC <Robert.Margolies@doc.state.wi.us>
To: <rikstaff@wra.org>
Sent: Wednesday, December 15, 1999 11:24 AM
Subject: AB 613 amendment

> Tony left you a message regarding this.
>
> -----Original Message-----
> From: Olsen, Jefren
> Sent: Wednesday, December 15, 1999 10:13 AM
> To: Margolies, Robert S. DOC
> Subject:
>
> <<99a1099/1>> <<99a1099/1dn>>
>
> Attorney Jefren E. Olsen
> Wisconsin Legislative Reference Bureau
> P.O. Box 2037
> Madison, WI 53701-2037
> Tel: (608) 266-8906
> Fax: (608) 264-8522
> Email: jefren.olsen@legis.state.wi.us
> <mailto:jefren.olsen@legis.state.wi.us>
>
>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1099/2
PJK:jl:km

*rm is not
run*

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 613

Today (Fri.)

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 12: delete the material beginning with "notice" and ending with

3 "property" on line 13 and substitute "providing ~~brokers, property owners and~~

4 ~~attorneys with~~ immunity from liability for not disclosing sex offender registry
5 information".

6 2. Page 33, line 21: delete the material beginning with that line and ending

7 with page 38, line 12, and substitute:

8 "SECTION 82m. 452.24 of the statutes is created to read:

9 **452.24 Immunity related to sex offender registry nondisclosure. A**

10 broker or salesperson is immune from liability for any act or omission related to not

11 disclosing that a particular person is required to register as a sex offender under s.

12 301.45 or any information about the sex offender registry under s. 301.45.

13 **SECTION 84m. 704.50 of the statutes is created to read:**

over

1 **704.50 Immunity related to sex offender registry nondisclosure.** A
2 landlord or his or her agent is immune from liability for any act or omission related
3 to not disclosing to a tenant or prospective tenant, or an agent of a tenant or
4 prospective tenant, that a particular person is required to register as a sex offender
5 under s. 301.45 or any information about the sex offender registry under s. 301.45.

6 **SECTION 86m.** 706.20 of the statutes is created to read:

7 **706.20 Immunity related to sex offender registry nondisclosure.** An

8 ~~owner of an interest in real property~~ is immune from liability for any act or omission related
9 to not disclosing ~~the purchaser or prospective purchaser of the interest, or an agent~~
10 ~~of the purchaser or prospective purchaser,~~ that ^{any} a particular person is required to
11 register as a sex offender under s. 301.45 or any information about the sex offender
12 registry under s. 301.45.”

13 **3.** Page 48, line 9: delete lines 9 to 16.

14

(END)

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1099/lins
PJK:jlg:km

INSERT 2-7

"SECTION 86m. 895.71^X of the statutes is created to read:

895.71 Liability exemption; sex offender registry nondisclosure.[✓]

Except as provided in s. 301.46 (7)[✓], a person ^{NO}_R

(END OF INSERT 2-7)

12/29/99

10:30

DOA STATE BUDGET OFFICE WI → 608 264 6948

NO. 243

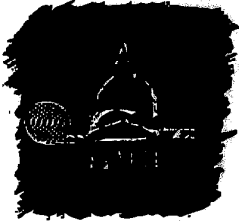
002

12/22/99

11:20

8

001/001



SCOTT R. JENSEN
ASSEMBLY SPEAKER

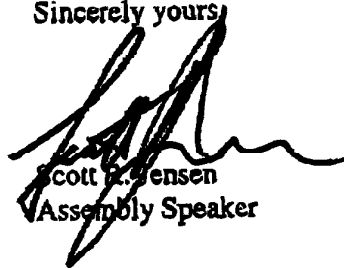
December 22, 1999

Deborah Uecker
Division of Executive Budget and Finance
Department of Administration

Ms. Uecker,

Pursuant to Joint Rule 41(3)(b), please request the state Department of Corrections to prepare a supplemental fiscal estimate on Assembly Bill 613, as amended by Assembly Amendment 1.

Sincerely yours,



Scott R. Jensen
Assembly Speaker

SRJ/rjp